

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	8:01CV500
)	
Plaintiff,)	
)	
vs.)	
)	
DRAVO CORPORATION,)	
DESCO CORPORATION, and)	
DESCO CORPORATION d/b/a)	
MARSHALLTOWN INSTRUMENTS, INC.,)	MEMORANDUM AND ORDER
)	
Defendants, Third-Party Plaintiffs,)	
and Counterclaim Defendants.)	
)	
vs.)	
)	
BRUCKMAN RUBBER COMPANY)	
)	
Third-Party Defendant, and)	
)	
THE CITY OF HASTINGS, NEBRASKA,)	
)	
Third-Party Defendant and)	
Counterclaim Plaintiff.)	

This matter is before the court on the motion of Third-Party Defendant and Counterclaim Plaintiff City of Hastings, Nebraska (hereinafter, "the City") to approve settlement, Filing No. 286. This is an action brought by the United States (hereinafter, "the Government") for cleanup costs associated with the Colorado Avenue Subsite of the Hastings Groundwater Contamination Site in Hastings, Nebraska, under the Comprehensive Environmental, Response, Compensation and Liability Act of 1980 ("CERCLA"), 42 U.S.C. § 9613(j). The proposed Settlement and Release Agreement resolves claims between the City and Third-party Plaintiffs and Counterclaim Defendants

Dravo Corporation and Desco Corporation (“Dravo and Desco”). Filing No. 286, Exhibit A (hereinafter, “Motion Ex. A”).

By previous order, the court has approved settlements of the claims between the Government and defendants Dravo and Desco, as well as the claims between Dravo and Desco and Bruckman Rubber Company (“Bruckman”). See Filing Nos. 284 and 277. In approving the settlement between Dravo and Desco and Bruckman, the court invoked its equitable powers to extend “contribution protection” to Bruckman. Filing No. 277, Memorandum and Order at 5 (approving the settlement proposed by Bruckman and Dravo and Desco and ordering that future claims for contribution were barred). The City seeks a similar order “[b]arring any and all claims by any entity against the City, including but not limited to claims for contribution or response costs pursuant to 42 U.S.C. §9613(f)(2), or other applicable federal or state law, related to the release or threatened release of hazardous substances or contaminants at or associated with the Subsite.” Filing No. 286. The City represents that Dravo and Desco do not object to a grant of contribution protection to the City, provided such contribution protection neither reduces Dravo and Desco's rights under the Settlement Agreement and Release nor increases their individual obligations with respect to any liability of the City.

For the reasons stated in the earlier order, the court finds the City's motion to approve the Settlement Agreement and release should be granted. See Filing No. 277, Memorandum and Order at 2-5. This court reviews a CERCLA settlement for fairness, reasonableness and adequacy. See *United States v. Hercules*, 961 F.2d 796, 800 (8th Cir. 1992). The court has reviewed the Settlement Agreement and Release and finds that it is fair, reasonable and adequate and promotes the public interest. Accordingly,

IT IS HEREBY ORDERED THAT:

1. The City's motion for approval of settlement agreement (Filing No. 286) is granted.
2. The Settlement and Release Agreement between Dravo Corp., Desco Corp. and the City of Hastings, Neb., Filing No. 286, Exhibit A, is approved.
3. Consistent with the terms of the Settlement and Release Agreement, all Dravo's and Desco's claims against the City are dismissed, with prejudice, each party to bear its own costs and attorneys' fees.
4. Consistent with the terms of the Settlement and Release Agreement, the City's counterclaims against Dravo and Desco are dismissed, with prejudice, each party to bear its own costs and attorneys' fees.
5. Any and all future claims by any entity against the City, including but not limited to claims for contribution or response costs pursuant to 42 U.S.C. § 9613(f)(2) or other applicable federal or state law, arising out of or related to the release or threatened release of hazardous substances or contaminants at or associated with the Subsite at issue in this litigation are barred.

DATED this 26th day of May, 2006.

BY THE COURT:

s/ Joseph F. Bataillon
United States District Judge